# BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

STEPHEN P. WATSON	)	
Claimant	)	
VS.	)	
	) Docket No. 195,85	52
JOHNSON COUNTY AGGREGATES	)	
Respondent	)	
AND	)	
	)	
CONTINENTAL INSURANCE COMPANY	)	
Insurance Carrier	)	

# ORDER

Respondent and its insurance carrier appealed the Award dated July 21, 1997, and the Order Nunc Pro Tunc dated July 25, 1997, entered by Administrative Law Judge Julie A. N. Sample.

## **APPEARANCES**

Derek R. Chappell of Ottawa, Kansas, appeared for the claimant. Margaret Gallagher Hague of Kansas City, Missouri, appeared for the respondent and its insurance carrier.

### RECORD AND STIPULATIONS

The record considered by the Appeals Board and the parties' stipulations are listed in the Award.

### ISSUES

Judge Sample awarded claimant permanent partial general disability benefits for a 55 percent work disability after finding a 10 percent task loss and a 100 percent wage loss.

In their brief to the Appeals Board, the respondent and its insurance carrier contend (1) claimant's permanent impairment is related solely to aging and, therefore, claimant did not sustain any permanent injury or impairment as a result of the September 1, 1994, accident; (2) that claimant was ultimately fired for cause after the accident and, therefore, should not receive benefits for a work disability because he has intentionally removed himself from the work place; and, (3) that claimant has sustained no wage loss because of an increase in his farm's gross revenue.

Claimant, on the other hand, contends the Judge erred by finding only a 10 percent task loss. He contends the task loss should be at least 63.65 percent.

The issues before the Board on this appeal are:

- (1) Did claimant sustain any permanent injury or impairment as a result of the September 1, 1994, accident?
- (2) What is the nature and extent of claimant's injury and disability?
- (3) Has claimant suffered a loss of ability to earn wages as a result of the accident?

# FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, the Appeals Board finds:

The Award should be affirmed.

IT IS SO ORDERED.

The Appeals Board adopts Judge Sample's findings and conclusions as set forth in the well written and well reasoned opinion. The Appeals Board also finds that Mr. Watson made a good faith effort to find appropriate employment after he was terminated by Johnson County Aggregates.

# AWARD

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award dated July 21, 1997, and the Order Nunc Pro Tunc dated July 25, 1997, both entered by Administrative Law Judge Julie A. N. Sample should be, and hereby are, affirmed.

# Dated this \_\_\_\_ day of August 1998. BOARD MEMBER BOARD MEMBER

c: Derek R. Chappell, Ottawa, Kansas Margaret G. Hague, Kansas City, Mo Julie A. N. Sample, Administrative Law Judge Philip S. Harness, Director